

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

VALERIE KLOOSTERMAN,

Plaintiff,

v.

METROPOLITAN HOSPITAL, d/b/a University
of Michigan Health-West, et al.,

Defendants.

No. 1:22-cv-00944-JMB-SJB
Hon. Jane M. Beckering

PLAINTIFF'S NOTICE OF SUPPLEMENTAL AUTHORITY IN OPPOSITION TO
DEFENDANTS' MOTIONS TO DISMISS CORRECTED FIRST AMENDED
COMPLAINT

Plaintiff Valerie Kloosterman alerts the Court to two recent Supreme Court decisions, enclosed as Exhibits A and B, for the pending Motions to Dismiss and Motion to Amend. ECF No. 34, 36, 51.

In *Groff v. DeJoy*, the Supreme Court unanimously held that an employer may not deny an employee's religious accommodation based on bias or hostility toward her beliefs. "[A] hardship that is attributable to employee animosity to a particular religion, to religion in general, or to the very notion of accommodating religious practice cannot be considered 'undue.'" No. 22-174, 2023 WL 4239256 (June 29, 2023), at *12 ("bias or hostility to a religious practice or a religious accommodation" is no "defense to a reasonable accommodation claim"). The Court clarified that "undue hardship" cannot be hypothetical, but that the employer must "show that the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business." *Id.* at 11. Courts must consider the practicality of accommodations given the employer's "size and operating cost." *Id.*

This decision is relevant to three of Ms. Kloosterman's arguments: (1) Defendants refused to consider Ms. Kloosterman's religious accommodation request, responding instead with animosity, bias and hostility, ECF No. 55, PageID.990-991, 996-997; (2) Defendants have not shown accommodating Ms. Kloosterman would cause undue hardship, ECF No. 49, PageID.812-816; and (3) Defendants could have easily accommodated Ms. Kloosterman's religious beliefs. ECF No. 49, PageID.810.

In *303 Creative v. Elenis*, the Court held that government actors may not force Americans to speak messages that violate their beliefs. Colorado's nondiscrimination law violated the Free Speech Clause by compelling a Christian website designer to create same-sex wedding websites.

Governments may not wield nondiscrimination policies to cause “the coercive ‘[e]liminati[on]’ of dissenting ‘ideas.’” No. 21-476, 2023 WL 4277208 (June 30, 2023), at *9.

303 Creative is relevant to Ms. Kloosterman’s argument that Defendants cannot force her to speak messages that violate her conscience, including by affirming statements that conflicted with her beliefs, using preferred pronouns that conflict with biological sex, or referring for gender-transition drugs and procedures. ECF No. 55, PageID.1000-1004.

Respectfully submitted this 6th day of July, 2023.

s/ Kayla A. Toney

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CERTIFICATE OF SERVICE

I hereby certify that I have on this 6th day of July, 2023, filed the foregoing document with the Clerk of Court using the CM/ECF system, which automatically sent counsel of record e-mail notification of such filing.

s/ Kayla A. Toney
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